

**Internal Revenue Service**  
Appeals Office ~ TEGE Programs  
Attn: Chris Doerr  
Royal Palm One, Suite 350  
1000 South Pine Island Road  
Plantation, FL 33324

Number: **201038021**  
Release Date: 9/24/2010

Date: July 2, 2010

A = Org. Name

B = Org. Address

To

We have considered your appeal of the revocation your tax-exempt status under section 501(c)(7) of the Internal Revenue Code.

Your exemption from Federal income tax under Section 501(c)(7) of the Internal Revenue Code is hereby revoked. This is a final adverse determination letter. You are required to file Federal income tax returns on Form 1120 for any years, which are still open under the statute of limitations.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code; however, we have concluded that you do not qualify under another subsection.

If you have any questions, please contact the person whose name and telephone number are shown above.

**Department of the Treasury**

**Person to Contact:**

Employee ID Number:

Tel:

Fax:

**Refer Reply to:**

AP:A4:T5:CD

In Re: A = Org. Name

EIN: C = EIN

UIL: 501.07.05

Year(s): FYE 10/31/      &  
10/31/

Sincerely,



Charles F. Fisher  
Appeals Team Manager

Cc:



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service  
30 East 7th Street, #1130-B  
St. Paul, MN 55101

August 20, 2008

ORG

Taxpayer Identification Number:  
Form:

ADDRESS

Tax Year(s) Ended:  
Person to Contact/ID Number:  
Contact Numbers:  
Telephone:  
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

Letter 3610 (04-2002)  
Catalog Number 34801V

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Vicki L. Hansen  
Acting Director, EO Examinations

**Enclosures:**  
**Publication 892**  
**Publication 3498**  
**Form 6018**  
**Report of Examination**

Letter 3610 (04-2002)  
Catalog Number 34801V

Form 886A	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
Name of Taxpayer  ORG		Year/Period Ended 10/31/20XX

**LEGEND**

ORG - Organization name      XX = Date

**ISSUE:**

Does the ORG continue to meet the qualifications of an organization described in Internal Revenue Code Section 501(c)(7)?

**FACTS:**

ORG received exemption as an organization described in IRC 501(c)(7) in 19XX. The books and records of the organization for the period ending October 31, 20XX were examined. It was found that the club is substantially in compliance with Rev. Proc. 71-17. Nonmember events are carried on throughout the year. The organization receives nonmember revenue for use of its golf course, pool and tennis court and from food and beverage sales to nonmembers. Form 990 was found to be substantially correct as filed.

The organization also filed Form 990-T for the period ending October 31, 20XX, which was found to be substantially correct. The organization has had a loss on its nonmember activity for every year since at least 20XX.

Inspection of the returns filed by the Club for the prior years shows that the organization has reported nonmember income in excess of 15\* since at least 20XX.

Based on the amounts reported on the organization's retained copies of Forms 990, the percent of gross receipts from nonmember use of facilities was %, %, % and % in the years ending October 31, 20XX, 20XX, 20XX and 20XX, respectively. See Attachment A.

Investment income in each of these years in less than one percent of the organization's receipts.

**LAW AND DISCUSSION:**

Internal Revenue Code section 501(c)(7) provides for the exemption from Federal income taxes for Social Clubs. Income Tax Regulation section 1.501(c)(7)-1 states that if a Social Club makes its social and recreational facilities available to

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended
ORG		10/31/20XX

the general public it will not qualify for tax-exempt status. However, Revenue Procedure 71-17 as amended by Public Law 94-568 provides certain gross receipts safe harbors; i.e. Social Clubs may receive up to % of their total gross receipts, including investment income, from sources outside of their membership without jeopardizing their tax-exempt status. Within this % limit, no more than % of a club's gross receipts may be derived from nonmember use of the club's facilities and/or services.

If a club exceeds the 15/35% test, then it will maintain its exempt status only if it can show through facts and circumstances that "substantially all" of its activities are for "pleasure, recreation and other nonprofitable purposes."

The following are important facts and circumstances to take into account to determine whether a club may maintain its exemption under IRC 501(c)(7):

- Frequency of use of the club facilities or services by nonmembers. An unusual or single event (that is, nonrecurring on a year to year basis) that generates all the nonmember income is viewed more favorably than nonmember income arising from frequent use by nonmembers.
- Record of nonmember use over a period of years. A high percentage in one year by nonmembers, with the other years being within permitted levels, is viewed more favorably than a consistent pattern of exceeding the limits, even by relatively small amounts. (See S. Rept. 94-1318, 2d Sess., 1976-2 C.B. 597,599).
- Purposes for which the club's facilities were made available to nonmembers.
- Whether the nonmember income generates net profits for the organization.

**TAXPAYER'S POSITION:**

The taxpayer's position is unknown at this time.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended
ORG		10/31/20XX

**GOVERNMENT'S POSITION:**

ORG has exceeded the % gross receipts standard for nonmember income on a continuous basis for at least four years. The nonmember receipts are earned throughout the year. There was no one single or unusual event that caused the club to exceed the % threshold. While the organization has reported losses on its dealings with nonmembers, some of the expenses contributing to the loss are interest, property taxes and depreciation. That is, fixed costs which would otherwise be borne by the members have been allocated to nonmember revenue, which contributed to the loss on nonmember activity.

Revocation of its tax-exempt status is warranted, effective November 1, 20XX.

As a taxable entity, the organization is required to file Form 1120, U.S. Corporation Income Tax Return for the periods open under statute. Under 6501(g) these periods include the years ending October 31, 20XX and October 31, 20XX.

Additionally, the organization is reminded of the provisions of IRC 277 concerning membership organizations which are not exempt organizations.

In accordance with the provisions of Internal Revenue Code Section 6014, copies of these examination conclusions and consent to the revocation of tax exemption will be submitted to the Minnesota Department of Revenue at the conclusion of the examination.